

AMENDED IN SENATE AUGUST 7, 2006

**Senate Constitutional Amendment**

**No. 32**

**Introduced by Senator Maldonado**

**(Coauthors: Senators Cox, Figueroa, Runner, and Speier)**

**(Coauthors: Assembly Members Benoit, Canciamilla, Shirley Horton,  
Mountjoy, and Wyland)**

May 9, 2006

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Senate Constitutional Amendment No. 32—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 5 of Article XVI thereof, relating to public funds.

LEGISLATIVE COUNSEL'S DIGEST

SCA 32, as amended, Maldonado. California missions: preservation.

The California Constitution generally prohibits the Legislature and any county, city and county, township, school district, or other municipal corporation from making an appropriation, paying from a public fund, or granting anything to or in aid of any religious sect, church, creed, or sectarian purpose, or helping to support or sustain any school, college, university, hospital or other institution controlled by any religious creed, church, or sectarian denomination, or from granting or donating personal property or real estate to any religious creed, church, or sectarian purpose.

This measure would permit these entities to make an appropriation, payment, or grant from a public fund or to donate personal or real property to a nonprofit organization for the preservation of ~~an historic building or facility owned or controlled by, or identified with, a religious creed, church, sectarian denomination, or nonprofit~~

~~organization organized for religious purposes any of the 21 California missions~~, provided that the preservation is for the benefit of the public, and the assistance is not provided primarily for sectarian purposes of a particular religious creed, church, sectarian denomination, or nonprofit organization organized for religious purposes.

The measure would specify that an appropriation, payment, or grant from a public fund or a donation of personal or real property authorized by its provisions is not the establishment, promotion, or preference of or for religion for purposes of the California Constitution.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring*, That the  
2     Legislature of the State of California at its 2005–06 Regular  
3     Session commencing on the sixth day of December 2004,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California, that the  
6     Constitution of the State be amended as follows:

7     That Section 5 of Article XVI thereof is amended to read:

8     SEC. 5. (a) Neither the Legislature, nor any county, city, city  
9     and county, township, school district, or other municipal  
10    corporation, shall ever make an appropriation, or pay from any  
11    public fund whatever, or grant anything to or in aid of any  
12    religious sect, church, creed, or sectarian purpose, or help to  
13    support or sustain any school, college, university, hospital, or  
14    other institution controlled by any religious creed, church, or  
15    sectarian denomination whatever; nor shall any grant or donation  
16    of personal property or real estate ever be made by the State, or  
17    any county, city, city and county, township, or other municipal  
18    corporation for any religious creed, church, or sectarian purpose  
19    whatever; provided, that nothing in this section shall prevent the  
20    Legislature granting aid pursuant to Section 3 of Article XVI.

21    (b) (1) Notwithstanding subdivision (a) or any other provision  
22    of this Constitution, the Legislature, or any county, city, city and  
23    county, township, school district, or other municipal corporation,  
24    may make an appropriation, payment, or grant from a public fund  
25    or a donation of personal or real property to a nonprofit  
26    organization for the preservation of ~~an historic building or~~  
27    ~~facility owned or controlled by, or identified with, a religious~~

1 ~~creed, church, sectarian denomination, or nonprofit organization~~  
2 ~~organized under the laws of this State for religious purposes, any~~  
3 ~~of the 21 historic California missions~~ provided that the  
4 preservation of the ~~historic building or facility~~ *California mission*  
5 is for the benefit of the public, and the appropriation, payment, or  
6 grant of money, or donation of personal or real property, is not  
7 made primarily for sectarian purposes of a particular religious  
8 creed, church, sectarian denomination, or nonprofit organization  
9 organized under the laws of this State for religious purposes.

10 (2) An appropriation, payment, or grant of money, or a  
11 donation of personal or real property, made pursuant to  
12 paragraph (1) is not the establishment, promotion or  
13 advancement, or preference of or for any religion or sectarian  
14 purpose, and shall not be construed as the appearance thereof, in  
15 violation of Section 4 of Article I or any other provision of this  
16 Constitution.

17 (3) For the purposes of this subdivision, the following  
18 definitions apply:

19 ~~(A) “Historic building or facility” means a building or facility,~~  
20 ~~or any portion thereof, listed as a National Historic Landmark or~~  
21 ~~in the National Register of Historic Places, as specified in federal~~  
22 ~~law, or in the California Register of Historic Resources, as~~  
23 ~~specified by statute, that is available for the use or enjoyment of~~  
24 ~~the public.~~

25 ~~(B)~~  
26 (A) “Nonprofit organization” means any nonprofit public  
27 benefit corporation that is formed pursuant to statutes governing  
28 nonprofit public benefit corporations in this State, qualified to do  
29 business in California, and qualified as exempt from taxation  
30 under federal law, that has, among its principal charitable  
31 purposes, the preservation of historic or cultural resources for  
32 cultural, scientific, historic, educational, recreational,  
33 agricultural, or scenic purposes.

34 ~~(C)~~  
35 (B) “Preservation” includes, but is not limited to,  
36 identification, research, maintenance, evaluation, recordation,  
37 restoration, stabilization, development, reconstruction, and  
38 seismic retrofitting, and any combination of those activities.

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